IN THE

# Supreme Court of the United States

OCTOBER TERM, 1970

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No. 85

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GUY PORTER GILLETTE,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

---

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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## RELEVANT DOCKET ENTRIES

February 3, 1969 - Filed indictment.

February 14, 1969 - Pleads Not Guilty Deft ordered fingerprinted Released on own recognizance. Motions Ret: 3/11/69. Tenney, J.

March 6, 1969 - Filed affdvt. & notice of motion to dismiss indictment ret. 3-11-69

March 12, 1969 - Filed Motion to Dismiss Argued. Decision-Reserved. Wyatt, J.

April 15, 1969 - Filed in court on 3-11-69 Affdvt. of Daniel J. Sullivan, Asst. U.S. Atty re: motion to dismiss & memorandum of law on motion to dismiss.

April 15, 1969 - Docketed memo endorsed on motion filed 3-6-69 *** the motion is denied–so ordered–signed on 4-14-69 (mailed notice) Wyatt, J.

August 25, 1969 - before Wyatt, J.–Jury trial begun & concluded. Deft. sentenced (atty present) Guilty–Deft. committed to custody of Atty General for a period of two (2) years. Deft. to surrender to U.S. Marshal by 9-22-69 by 10:30 A.M. room 318, and is continued on own recognizance until that time. Deft. advised of his rights to appeal. Wyatt.

August 25, 1969 - Filed Judgment (atty present) It is adjudged that the deft. is hereby committed to the custody of the Attorney General of his authorized representative for imprisonment for a period of Two (2) Years. The deft is continued on his own recognizance until September 22, 1969 at 10:30 a.m., at which time he is to surrender to the U.S. Marshal for service of sentence. Wyatt, J.

August 25, 1969 - Issued commitment & copies.

August 29, 1969 - Filed notice of appeal to the U.S.C.A. second circuit. $5.00 paid (sent notice)

September 23, 1969 - Filed Transcript of record of proceedings, dated 8-25-69

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

S. D. OF N. Y.

UNITED STATES OF AMERICA :

-v- : INDICTMENT

GUY PORTER GILLETTE, : 69 Cr. 97

Defendant. :

69 Cr. 97

U.S. DISTRICT COURT
FEB 3 1969
S. D. OF N. Y.

The Grand Jury charges:

On or about the 14th day of December, 1967, and up to and including the date of the filing of this indictment, in the Southern District of New York, GUY PORTER GILLETTE, the defendant, unlawfully and knowingly did fail, neglect and refuse to perform a duty required of him under and in execution of the Military Selective Service Act of 1967, Title 50 Appendix, United States Code, Section 451 et seq., and the rules, regulations and directions made pursuant thereto, in that he, being a registrant, to whom an Order to Report for Induction had been mailed by his Selective Service System Local Board, unlawfully and knowingly did fail, neglect and refuse to report at the office of Local Board No. 8, 45 So. Broadway, Room 111, Yonkers, New York, for induction into the Armed Forces of the United States.

FILED
FEB 3 1969
A. DANIEL FUSARO, CLERK

(Title 50 Appendix, United States Code, Section 462(a) 32 C.F.R. 1632.14 )

Foreman

ROBERT M. MORGENTHAU
United States Attorney

UNITED STATES OF AMERICA

v

GUY PORTER GILLETTE, Defendant

69 Cr. 97

This is a motion by defendant for an order dismissing the indictment. Citation is to Fed. R. Crim. P. 12.

The indictment charges in one count failure of defendant as a registrant to report for induction into the Armed Forces of the United States (50 U.S.C. App. § 462(a); 32 CFR § 1632.14).

The motion raises issues of fact. There is no motion for summary judgment in a criminal case. If it be suggested that the "defense" raised by the motion is one "which is capable of determination without the trial of the general issue" (Fed. R. Crim. P. 12(b) (1)), then it clearly ought to be "deferred for determination at the trial of the general issue" (Fed. R. Crim. P. 12(b) (4)). *United States v. Fargas*, 267 F. Supp. 452, 455-57 (S.D.N.Y. 1967); see also *United States v. Gearey*, 368 F.2d 144, 150-51 (2d Cir. 1966); cf. *United States v. Stafford*, 389 F.2d 215, 219 (2d Cir. 1968); *United States v. Jakobson*, 325 F.2d 409, 417 (2d Cir. 1963) (dictum), aff'd sub nom. *United States v. Seeger*, 380 U.S. 163 (1965); *United States v. Balogh*, 157 F.2d 939, 944 (2d Cir. 1946), vacated on other grounds, 329 U.S. 692 (1947).

The motion is denied.

SO ORDERED.

Dated: April 14, 1969

INZER B. WYATT
United States District Judge

August 25, 1969,
10 A.M.

Before:

Inzer B. Wyatt,

District Jury and a Jury.

APPEARANCES:

Robert M. Morgenthau, United States Attorney,
For the Government,
By: Peter F. Rient, Esq., and
Charles Updike, Esq., Assistant U.S. Attorneys

Conrad J. Lynn, Esq., and
Barbara Rowan, Esq.,
For the Defendant

* * *

[2] (In the robing room)

THE COURT: I thought it better to give counsel some of my views on the law before we have opening statements, otherwise there might be objections during the opening statements which either would require that the jury be excused or that we have a side bar conference. I want to avoid that.

Mr. Lynn, my remarks really are addressed primarily to you because you represent the defendant, and you have a point based on his beliefs and based on Judge Wyzanski's decision, but after reading the cases, I think as far as any defense based on this defendant's views is concerned, that your point will have to be made to a higher court. I don't believe that, for example, [3] evidence that he believed that the Vietnam war is illegal or immoral or that he would be wrong to participate in it, or in humanism as applied to this matter, or anything else, is admissible.

I think that the only point at which those matters, so far as this trial is concerned, become of any significance is in your point, if you urge it, as I assume you will, that there was no basis in fact for the classification of this defendant,

that is, for refusal to give him a conscientious objector classification, that question is for the trial judge and should not be submitted to the jury and at a point when that matter is raised, I will excuse the jury and I will hear you on that point.

I have examined the Selective Service file of the defendant which was made available to me over the weekend by the United States Attorney. I did that to become familiar with it, but I am prepared to hear your arguments in the absence of the jury.

It seems to me, therefore, that as far as the jury is concerned, the only issue is whether this defendant knowingly failed to report, and I have given you my definition in my explanation to the jury this morning. It makes a very narrow issue to be tried to [4] a jury, and it circumscribes you, I appreciate, enormously, but that's my view of the law, and the record will show that differs from your view so that it can be raised in an upper court.

* * *

[9] THE COURT: Well, I don't either, but one thing that he wants to do is he wants to say that under the Estep case that there was no basis in fact for the refusal to give the defendant a conscientious objector classification.

MR. LYNN: Right.

[10] THE COURT: And that is a question I have to decide, and not the jury.

* * *

[20] MR. LYNN: Now, if the Court please, I assume that the government is not submitting anything further to your Honor on whether the board had a basis in fact for its classification.

THE COURT: I understand the government is relying on the file itself, is that right, Mr. Rient?

MR. RIENT: That's correct, your Honor.

THE COURT: All right.

MR. LYNN: Now, before I call the defendant to the stand I want to ask the Court's ruling on the position that

we take, that is, under Article 3 of the United States Constitution, the Supreme Court and the inferior Federal Courts are created with a jurisdictional basis, in law and effect, that the defendant, as your Honor has indicated, his objection to service being based on his view that the war is immoral and illegal because it hasn't been declared, among other things, is not permitted to testify about that position, and I say that to deny him the right to do that is a violation of the Fifth Amendment in that it denies him due process of law, the right to put in his defense to a criminal prosecution under the Constitution.

THE COURT: No, I can't sustain that objection. I adhere to my ruling.

[23] THE COURT: All right.

(Pause)

* * *

THE COURT:. . .[1] If you want to present evidence as to what was put before the board at his personal appearance to supplement the file, I think that would be proper. I don't think anything else would be proper.

Now you can make whatever offer you would like to make to preserve your point in the record, but that's my view on the question of evidence, do you understand?

MR. LYNN: Yes, I understand, your Honor.

If the Court please, at this time the defendant makes an offer of proof as to his appearance before the [24] Draft Board. That offer consists of–

THE COURT: No, I will permit you to have him testify to that, to what took place before the board at his personal appearance. I will permit that.

MR. LYNN: All right.

THE COURT: And if you want anything else besides that, I will rule it out, but you have a right to make an offer of proof. It is not necessary to make an offer of proof as to what Mr. Gillette told the board because I will hear him on that.

GUY P. GILLETTE, called as a witness in his own behalf, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LYNN:

Q. Where do you live, Mr. Gillette? A. 133 Mountaindale Road, Yonkers, New York.

Q. Now, you registered for the draft? A. I did, yes.

Q. When was that? A. On my 18th birthday.

Q. Do you remember the year? A. Yes. It was—well, I'm 23 so it was five years ago.

[25] Q. Now, Mr. Gillette, did there come a time that you made application to be classified as a conscientious objector to your local board? A. Did there come a time?

Q. Yes. A. Yes. It was in April of '67.

Q. And you wrote a letter to the board? A. Right.

Q. Now, after that, did you have a hearing before that application was acted upon? A. It was sent first—I had to appeal first to the New York State board, and they requested the local board give me a hearing first.

Q. And then it was after you had appealed to the state board that you were granted a hearing? A. Correct.

Q. Before the local board? A. Right.

Q. Do you remember when that was? A. Not the exact date.

Q. Was it in July, 1967? A. I believe so, yes.

Q. Now, at the time that you—did you appear alone?

[26] A. Yes, I did.

Q. And how many members of the board were sitting? A. I believe there were four—four or five.

Q. Now will you tell the Court what was said to you and what you said to the members of the board, to the best of your recollection? A. Well, approximately they asked me if I was opposed to all war and I said yes, that I was. Then they said, but are you specifically opposed to the war in Vietnam. I said I am, yes, because that's the war I am faced with. That's the only war that I have to contend with at the time. I don't have to worry about any other war so I said yes, I am opposed to the war in Vietnam. And then I believe they asked me "Would you serve as a non-combatant in the United States Army?" And I told them that I wouldn't because I felt that was aiding the war effort, which

I was opposed to.

Then they asked me "Would you accept civilian duty in a hospital, or that type of civilian duty," and I said yes, that I would.

Then they were talking about my religious beliefs. They said, "You know, is your religion, are you basing this on your religion," and I explained that my religion was a humanist—it was based on [27] a humanist approach to religion, that it wasn't a more or less recognized religion, and I said that I believe that man is totally responsible to himself for what he does, and that the responsibility is up to me to make a decision as to whether I will kill another man. And I brought up the Nurenburg charter and I said that it had been, you know, several government, United States government officials had signed and agreed that the Nurenburg charter was fully to be abided by, and I recall in school that there was always one of the main things that was brought out against the Germans was that they didn't stand up on their own moral convictions and say that they would not fight in an unjust war. And I remember very vividly a teacher that I had in school saying that this was something—

THE COURT: Is that what you told them?

THE WITNESS: I was discussing this yes.

THE COURT: What we want, Mr. Gillette, is what you told the board at this personal appearance.

THE WITNESS: I told them that I was responsible to my conscience.

Q. Did you tell them about this teacher that you were just talking about? A. No, I don't believe that I did. [28] Q. Just stick with what you actually said to the board and what they said to you? A. Right.

Q. Yes, Go ahead. A. I told them what I just said about the Nurenburg charter, and as I recall, there was no statement at all either way to any of these things except, you know, yes and no, and they were just agreeing. And I believe that that was about all that transpired between us and they said okay.

I do recall that they—only one member of the board was paying strict attention to me. The other members were doing paper work at the time.

Q. Well, now, you said there were five members sitting. A. I believe that there were four or five. I really don't recall the exact number.

There was also a stenographer. I don't know where that record is. I assume that there was some type of record because she was taking notes, and if that is not in the file I don't know what happened to it.

Q. Now, Mr. Gillette, did any member of the board give an opinion as to what he thought about your grounds at that time? [29] A. There was no opinion at all except—the only opinion actually that I remember them giving at all was when I said that I would not serve as a non-combatant in the Army one of the members sort of gave a sarcastic laugh and said, "I thought so" and that was all. There was no reason given, there was nothing given. They just well, well, thank you very much. And that was it.

Q. And how long after that did you get a notice of their decision? A. I imagine it was about a week or two later. I don't know the exact time that expired.

Q. You didn't submit any other witnesses to the board at that time? A. As I recall, they didn't allow any witnesses. My father was there. My father was present. They wouldn't allow him in the room. He was told that I could have no witnesses at all.

Q. Now, did the board bring up to you any correspondence they had had with your references? A. They brought up nothing. They were working, as I said, on some other files. I don't understand quite why.

MR. LYNN: That is all.

[30] THE COURT: All right. Any questions, Mr. Rient?

MR. RIENT: Yes, a few.

THE COURT: All right. Wait a second, Mr. Gillette.

CROSS EXAMINATION BY MR. RIENT:

Q. Mr. Gillette, I show you what is part of Government's Exhibit 1 and what is marked as 37 in the upper right-

hand corner and ask you if that refreshes your recollection as to the date on which your personal appearance took place? A. Well, it says August 8th. I imagine that was the time.

Q. Is it your recollection now that the appearance took place in August as opposed to July, 1967? A. I suppose so. As I said, I don't recall the exact date.

Q. Do you recall, Mr. Gillette, whether you discussed with the members of the local board the time at which your opposition to war crystallized in your mind? A. I believe that I had said over the last few years I had become, you know, seriously involved, naturally since it was confronting me, you know, and I was becoming, you know, more aware of happenings in the world.

[31] Q. Did you tell the members of the board that your opposition to war stemmed more or less from the Vietnam war? A. I said that I am opposed to all war but that I am specifically opposed to the Vietnam war at the time because that's the war that I am faced with.

Q. Did any member of the board ask you whether you would fight to defend this country if it were attacked? A. I don't believe so.

Q. Do you recall whether, in your Selective Service Form 150, in which you applied for conscientious objector status, you indicated that you might fight in defense of this country if it were attacked? A. Yes, I did.

Q. Did you also indicate in that form that you might fight to enforce a decision by a majority of the United Nations against the country accused of breaking the peace? A. Right, that's correct.

Q. And you executed that Form 150 approximately when? A. April of 1967.

Q. I show you what has been previously marked as part of Government's Exhibit 1 and it bears the [32] number 18 on the top right-hand corner. Directing your attention to page 4 thereof, does your signature appear thereon? A. Yes.

Q. And is there a date there? A. Yes, May 8th.

Q. Is that the date you executed this form? A. I guess so, yes.

Q. So you signed this form three months prior to your appearance before the board, is that right? A. Yes.

MR. RIENT: May I have a moment, your Honor?

(Pause)

Q. Mr. Gillette, you testified earlier that during your appearance before the board only one of the members seemed to be paying attention and that the others were working on other matters, is that correct? A. That's correct.

Q. Could you see what they were working on? A. It seemed to me it was draft files. I really don't know. I didn't pay that much attention to what they were working on.

Q. So you don't know what things they were working on? [33] A. It was piles stacked in front of them. It couldn't have been pertaining to me.

Q. Merely because they had other files stacked in front of them doesn't mean that they weren't paying attention to your case. A. Well, I assumed it meant something to do with another person's armed forces record in some way. They were definitely writing with pens, pencils and going from one sheet to another.

MR. RIENT: No further questions, your Honor.

THE COURT: Mr. Lynn, anything else?

MR. LYNN: That is all your Honor.

THE COURT: Thank you, Mr. Gillette. You may step down.

(Witness excused)

* * *

[36] MR. LYNN: The summary, at the end, which they [the draft board] made on August 8th, reads "Registrant stated his conscience won't let him fight in Vietnam. Registrant also stated he could not honestly say he would not defend his country if it were attacked. He very well might fight the country being attacked. His main source of information which brought about these beliefs was from the news media in respective publications on the war. Reg-

istrant is opposed to military service in the case of the Vietnam war. Registrant formed his beliefs in the past two years or so and is more or less a result of the Vietnam war."

* * *

[42] THE COURT: Well, now, the argument made by Mr. Lynn is ably put and is supported to some extent at least, if not entirely, by Judge Wyzanski's opinion.

Whether there are distinctions in fact between the case before Judge Wyzanski and this one I can't say.

I do believe that from what was before the board there was a basis in fact for a conclusion by the board that aside from any question of sincerity, the views of this defendant were primarily, if not entirely, based on an opinion, a feeling, a belief, that the Vietnam war is immoral and unjust. And that those opinions had been formed after the registration, which I think was in 1964, and having so concluded, as a matter of fact, I think the board could make no further finding but that those views did not meet the specifications laid down by Congress for determing a conscientious objector. Those standards being found[43] of course, in Volume 50 Appendix of the United States Code, Section 456, subsection J.

If I understand Judge Wyzanski's opinion correctly, he says that if a person believes sincerely on moral grounds that the Vietnam war is unconscionable, that he is entitled by virtue of that fact, to a conscientious objector classification under any stature conforming to the Constitution.

I believe his opinion recognizes that the statute to which I have referred does not permit a conscientious objector status to a person with such views directed to the morality of a particular war such as the Vietnam war. And therefore he says the statute is unconstitutional.

If I have correctly understood Judge Wyzanski's views, then with great respect I must differ from him, and I decline to follow the decision.

In consequence, having found the basis in fact for the board's classification of the defendant as 1A, I believe that the trial must proceed with the limitations as to defenses

and consequently as to evidence which I have already indicated.

MR. LYNN: As I understand your Honor, you are ruling that because there is no basis in the statute [44] for moral as opposed to religious objection, therefore the board had a right to conclude that.

THE COURT: No, I made it plain that I think that there was a basis in fact for the board concluding that whatever moral views were held they were directed to the Vietnam war, and I don't believe, differing from Judge Wyzanski, I don't believe that that gives a constitutional right to an exemption as a conscientious objector.

* * *

[61] MR. LYNN: At this time your Honor, the defendant moves to dismiss the indictment upon the ground that the government has failed to prove a prima facie case.

The government put in evidence and elicited testimony that this defendant had registered for the draft, and then it put in an order to report for [62] induction, and his reply to that report for induction, but the government didn't show, as a necessary element of a prima facie case in this instance, that this defendant was eligible for service, in other words, the government failed to show that this defendant was classified in a category that required him to report for service.

THE COURT: Well, I ruled that the order of the board which had been put in evidence was valid, and therefore the matter is at rest, and there is no question in my mind but that any ruling that the order is valid is the law of the case, and therefore I think I will have to deny your motion.

MR. LYNN: The jury, however, is entitled to have before it the question of whether this person has been classified properly to be called for induction, and there has been no evidence before the jury that this person was classified in any way making him responsible to report under an order of induction. And I think that the fact that your Honor knows this is not a matter that is before the jury.

THE COURT: No. The jury has nothing to do with the

validity of the order as I read this decision in Cox v. The United States to which we referred this [63] morning. I think that's entirely for the Court. It would be improper for me to submit to the jury any question about the validity of the order.

* * *

GUY P. GILLETTE, called as a witness in his own behalf, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. LYNN:

* * *

[64] Q. Now, you saw the letter that was marked as Government's Exhibit 1—did you receive this letter marked 1B dated December 22, 1967? A. Yes, I did.

Q. And did you answer that letter? A. Yes.

Q. And is this your answer to the letter of the Draft Board? A. Yes, it is.

* * *

Q. What is the date of that letter? A. December 27th.

Q. What year? A. 1967.

Q. Will you read that letter to the jury?

MR. RIENT: I object, your Honor.

THE COURT: Sustained.

Q. Now Mr. Gillette, were you ever classified as a conscientious objector? A. No, I wasn't.

Q. What was the date that you were to appear for induction? A. It was December 14, 1967,

Q. And did you go to the Yonkers board and appear for induction on that day? A. I don't think so, no.

Q. And at that time did you believe that you were within the law? A. Yes, I did.

MR. RIENT: Your Honor, I think—

THE COURT: Do you object?

MR. RIENT: Yes.

THE COURT: Sustained. The jury will disregard the answer.

MR. LYNN: That is all.

THE COURT: Any questions, Mr. Rient?

CROSS EXAMINATION BY MR. RIENT:

Q. Mr. Lynn, were you classified 1A–excuse me– Mr. Gillette, were you classified 1A at the time you received the order to report for induction? A. Yes, I was.

Q. There is no question but that you did receive the order to report, is there? A. No.

Q. Mr. Gillette, I show you the indictment in this case and I ask you whether you understand what is charged in this indictment? A. Yes, I do.

MR. LYNN: If the Court please, I will object to that because it calls for a conclusion.

THE COURT: Your objection is sustained. The jury will disregard the answer.

Q. Mr. Gillette, you knew, when you received the order to report for induction, that you had to report for induction under the law, didn't you? A. No.

Q. You thought that the order was meaningless? A. No. In my opinion the order was incorrect.

Q. Incorrect? A. It was unjust, let's say. That was my opinion.

Q. But you didn't have any doubt, did you, as to what was required of you by the order, did you? A. I had no doubt what they wanted me to do, no.

MR. RIENT: No further questions, your Honor.

THE COURT: Mr. Lynn?

MR. LYNN: No further questions.

THE COURT: Thank you, Mr. Gillette, you may step down.

* * *

[75] MR. LYNN: Now the government asked him to identify and introduce in evidence a letter from his board asking him why he didn't report for induction, and that letter in evidence dated December 22, 1967, reads:

"Mr. Guy Porter Gillette, 133 Mountaindale Road,

Yonkers, New York:

Dear Sir:

You are hereby notified to inform this Local Board as to the reasons why you didn't report for induction as scheduled on order to report for induction SS Form 252 which was mailed to you on November 29, 1967, scheduling your induction for December 14, 1967. We urge an immediate reply to this letter. By direction Local Board No. 8, Eileen Gannon, Clerk."

And the government also has introduced into evidence for your examination and consideration the letter in reply by this defendant dated December 27, 1967. Local Board No. 8. 45 South Broadway, Yonkers, New York:

"Dear Sirs:

In answer to your letter of December 22nd I didn't appear for induction as scheduled because of reasons stated in my application as a conscientious objector. These reasons are that on the basis of individual conscience as set forth in the Nurenburg charter I cannot serve in support of war, in particular, in the war in Vietnam which I feel is injust and illegal. Fundamental questions of life, the infliction of pain, suffering or death on other people is to me against all principles of my humanist belief. I believe that the defense of ethical values should be a persons supreme aim in life. This belief is basic in the lives of many individuals and of the Society for Ethical Culture. Each individual faces a personal dilemma many times in his life, but burely if one's life is a whole and is not compartmentalized he must live by the same values which support and answer these fundamental questions. By what right may I take another's life or destroy his family and home? The only moral or religious reality for me is to ask that I cannot."

You have not before you the question whether this young man was properly classified as a conscientious objector.

That is not before you. The only purpose in bringing this to your attention is for you to be able to have some insight whether not only did this young man not report, but this being a felony charge, whether he had the intent to disobey law, or was he moved by other motives.

[77] THE COURT: No, I can't permit that. That question of intent is not for the jury. The question for the jury is solely knowingly, and as I will instruct the jury later, the purpose of offering and receiving the letter from the Local Board to Mr. Gillette, and his reply was solely to show that in fact he did not report for induction and knew that he hadn't reported for induction. His reasons why he didn't report for induction as given in the letter, and whether he genuinely believed those reasons or not, is wholly besides the point and has no possible connection with this case.

MR. LYNN: And as I understand your Honor, you are now ruling that the jury cannot consider the question of intent.

THE COURT: Not consider the question of intent as you put it. They can only consider the question of whether his refusal to report for induction was done knowingly. His motives, his beliefs, his reasons, and whether they were moral or otherwise, or good, or worthy or unworthy, as I will tell the jury later, has nothing to do with this case.

MR. LYNN: I have nothing further to say, your Honor.

* * *

United States District Court
FOR THE
[illegible]

*United States of America*
v.
GUY FORTIS GILLIAMS

No. 69 Cr. 97

On this 25th day of August, 1969 XIX came the attorney for the government and the defendant appeared in person and by counsel

IT IS ADJUDGED that the defendant upon his plea of not guilty and a verdict of guilty by a jury

has been convicted of the offense of unlawfully and knowingly failing, neglecting and refusing to perform a duty required of him under and in execution of the Military Selective Service Act of 1967, in that he, being a registrant, to whom an order to report for induction had been mailed by his Selective Service System Local Board, unlawfully and knowingly failing, neglecting and refusing to report for induction into the Armed Forces of the United States. (Title 50 Appendix, United States Code, Section 462(a))

as charged

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO (2) YEARS.

The defendant is continued on his own recognizance until September 22nd, 1969 at 10:30 a.m., at which time he is to surrender to the U. S. Marshal for service of sentence.

MICROFILM
AUG 26 1969

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant

*Unite[illegible] State[illegible] District Judge.*

UNITED STATES COURT OF APPEALS

For the Second Circuit

No. 359—September Term, 1969.

(Argued December 11, 1969 Decided January 9, 1070.)

Docket No. 34021

UNITED STATES OF AMERICA

*Appellee,*

*against*

GUY PORTER GILLETTE,

*Appellant.*

Before: MOORE and KAUFMAN, *Circuit Judges;* RYAN,* *District Judge.*

Appeal from a judgment of conviction for refusal to report for induction into the armed services, in violation of 50 U.S.C. App. § 462 (Supp. IV, 1965-68). The judgment was entered in the United States District Court for the Southern District of New York on August 25, 1969, after a one-day trial before Inzer B. Wyatt, *Judge,* and a jury. The defendant was sentenced to a term of imprisonment of two years.

Affirmed.

Conrad J. Lynn, New York, N. Y., *for Appellant.*

Harold F. McGuire, Jr., Assistant United States Attorney, New York, N. Y. (Robert M. Morgenthau, United States Attorney for the Southern District of New York, New York, N. Y., and Peter F. Rient, Assistant United States Attorney, New York, N. Y., of counsel), *for Appellee.*

Per Curiam:

Guy Porter Gillette was ordered to report for induction into the armed forces on December 14, 1967. He failed to report as ordered and did not submit to induction. At his trial for violation of 50 U.S.C. App. § 462 (Supp. IV, 1965-68) his sole defense was that he should have been classified as a conscientious objector. He based his attack on the validity of his I-A classification not on any procedural irregularity but on a contention that the provision of the Military Selective Service Act of 1967 which allows exemption for conscientious objectors[1] is unconstitutional as applied to him. At a pre-trial hearing, Judge Wyatt ruled that evidence as to Gillette's belief that American intervention in Vietnam was unconstitutional, illegal or immoral would be inadmissible. Finding the induction order to be valid, Judge Wyatt limited the jury trial to the issue of whether Gillette's failure to report was knowing and willful.

Evidence derived from Gillette's selective service file and from his testimony before Judge Wyatt reveals that Gillette's beliefs were based on humanism and were specifically directed against the war in Vietnam. His position seems to include a willingness to defend his homeland if it were attacked and to fight to enforce a United Nations decision against a country accused of breaking the peace. Judge Wyatt found that Gillette's views were based "on an opinion, a feeling, a belief that the Vietnam war is immoral and unjust" and that the draft borad could properly conclude that "those views did not meet the standards laid down by Congress for determining a conscientious objector." He expressly refused to rule that the board had denied the request for exemption because Gillette's views were non-religious:

"The consitiutional power of Congress to raise and support armies and to make all laws necessary and proper to that end is broad and sweeping." *United States v. O'Brien*, 391 U.S. 367, 377 (1968); *Lichter v. United States*, 334 U.S. 742, 755-58 (1948); *Selective Draft Law Cases*, 245 U. S.

366 (1918). The exercise of this power to conscript and train men does not depend on the contemporaneous existence of a war. It may be exercised in time of peace. *United States v. Henderson*, 180 F.2d 711, 713 (7th Cir. 1950). We reaffirm our holdings in *United States v. Mitchell*, 369 F.2d 323 (2d Cir. 1966) and *United States v. Bolton*, 192 F.2d 805 (2d Cir. 1951) that allegations that a particular employment of the armed services is in violation of the Constitution, international treaties or a moral code do not raise a defense to a prosecution for failure to report for induction into the armed forces. For these reasons Gillette cannot successfully challenge the legality of the war in Vietnam in these proceedings.

The contention that the conscientious objector provision of the Military Selective Service Act of 1967, 50 U.S.C. App. § 456(j), is unconstitutional as applied in this case is based on the recent decision of Judge Wyzanski in *United States v. Sisson*, 297 F. Supp. 902 (D. Mass. 1969), *prob. juris. noted*, 38 U.S.L.W. 3113 (U. S. Oct. 14, 1969) (No.305). The future effect of that decision upon the application of the Act to so-called "selective" conscientious objectors and "non-religious" conscientious objectors must await a determination by the Supreme Court. In this connection we note that there was no finding below as to whether Gillette's views were "by reason of religious training and belief" or were "essentially political, sociological, or philosophical." Even assuming that his views were "religious" as that word is construed to insure the constitutionality of the Act, the Act requires opposition "to participation in war in any form." To exact such a prerequisite for exemption from induction into the armed forces is not to overstep the powers granted to Congress to raise and support armies. The mere potentiality, arising upon his induction, that Gillette would have to violate his conscientious objection to service in Vietnam is not sufficient to outweigh the application of this exercise of Congressional power to him. See *United States v. Henderson, supra; United States v. Bolton, supra. Contra, United States v. Sisson, supra*, at

906-11.

Gillette also asserts that there was error below in the refusal to allow him to explain his reasons for not appearing for induction to the jury and in the denial of his motion to dismiss fc failure to prove a prima facie case. We find no merit in these contentions.

The conviction is affirmed.

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• Of the Southern District of New York, sitting by designation.

[1] 50 U.S.C. App. § 456(j) (Supp. IV, 1965-68) provides:

"Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. As used in this subsection, the term 'religious training and belief' does not include essentially political, sociological, or philosophical views, or a merely personal moral code."

GUY GILLETTE
133 mountaindale road yonkers, n. y. spencer 9-4684

April 29, 1967

Local Board No. 8
45 South Broadway
First Floor, Room 111
Yonkers, New York

Dear Sirs,

I am requesting the classification of conscientious objector on the basis of the following reasons:

1) I believe that the United States Government is using all the brutal instruments of modern war against a poor peasant population which simply claims the right to have a government of its own free choice. President Franklin Roosevelt and Winston Churchill declared in the Atlantic Charter that: "they desire to see no territorial change that does not accord with the freely expressed wishes of the peoples concerned. They respect the right of all peoples to choose the form of government under which they will live."

a) Under th Treaty of London of 1945 (Nuremberg Charter) which outlaws the "waging of a war of aggresion" and makes soldiers individually responsible as war criminals, even is they are acting under orders. This Treaty was signed by representatives of the United States government.

b) The Treaty of London further states that official positions, superior orders, or positions limited to that of an accomplice, do not free an individual from responsibility and punishment.

2) I object to any assignment in the United States Armed Forces while this unnecessary and unjust war is being waged, on the grounds of religious belief specifically "Humanism". This essentially means respect and love for man, faith in his inherant goodness and perfectability, and confidence in his capability to improve some of the pains of the human condition.

Religion of Humanity: "holding that mans duty is chiefly or wholly comprised in the advancment of the human race." - The Oxford Universal Dictionary.

I would like to request that you send me a Form 150.

Sincerely,

/s/ Guy Gillette
30 8 45 523

Local Board No. 8
45 South Broadway

May 1 1967

Room 111, 1st Floor
Yonders, N.Y. 10701

Local Board No. 8
45 South Broadway

AUG 17 1967

Room 111, 1st Floor
Yonkers, N.Y. 10701

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# SELECTIVE SERVICE SYSTEM

## SPECIAL FORM FOR CONSCIENTIOUS OBJECTOR

LOCAL BOARD NO. 8
40 South Broadway
ROOM 111, 1ST FLOOR
YONKERS, N. Y. 10701

MAY 1 1957

Room 111, 1st Floor
Yonkers, N.Y. 10701

(Local Board Stamp)

THIS FORM MUST BE RETURNED ON OR BEFORE
May 12, 1957

Date of mailing of form: MAY 2 1957
Date received at local board: May 12, 1957

| 1. Name of Registrant | | | 2. Selective Service No. |
|---|---|---|---|
| GILLETTE, | GUY | PORTER | 30 8 45 523 |
| (Last) | (First) | (Middle) | |
| 3. Mailing address: 133 Mountaindale Road | Yonkers, | West. New York | 10710 |
| (Number and street or R.F.D. No.) | (City or town) | (County) | (State) |

### INSTRUCTIONS

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on this special form, which when filed shall become a part of his Classification Questionnaire, SSS Form No. 100.

The items in Series II through V in this form are intended to obtain evidence of the genuineness of the claim made in Series I and the answers given by the registrant shall be for the information of only the officials duly authorized under the regulations to examine them.

In the case of any registrant who claims to be a conscientious objector, the local board shall proceed in the prescribed manner to determine his proper classification. The procedure for appeal from a decision of the local board on a claim of conscientious objection is provided for in the Selective Service Regulations.

Failure by the registrant to file this special form on or before the date indicated above may be regarded as a waiver by the registrant of his claim as a conscientious objector: *Provided*, that the local board, in its discretion, and for good cause shown by the registrant, may grant a reasonable extension of time for filing this special form.

### Series I.—CLAIM FOR EXEMPTION

**INSTRUCTIONS.—The registrant must sign his name to either statement A or statement B in this series but not to both of them. The registrant should strike out the statement in this series which he does not sign.**

(A) I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form. I, therefore, claim exemption from combatant training and service in the Armed Forces.

Refer to Original Statement

(B) I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and I am further conscientiously opposed to participation in noncombatant training and service in the Armed Forces. I, therefore, claim exemption from both combatant and noncombatant training and service in the Armed Forces.

Refer to Original Statement. Guy Porter Gillette

Under the provisions of section 6 (j) of the Universal Military Training and Service Act, as amended, any person who claims exemption from combatant training and service in the Armed Forces of the United States because he is, by reason of religious training and belief, conscientiously opposed to participation in war in any form and such claim is sustained by the local board, shall, if he is inducted into the Armed Forces, be assigned to noncombatant service as defined by the President, or shall, if found to be conscientiously opposed to participation in such noncombatant service, in lieu of induction, be ordered by his local board, subject to regulations prescribed by the President, to perform for a period of twenty-four consecutive months such civilian work contributing to the maintenance of the national health, safety, or interest as the local board deems appropriate, and any such person who fails or neglects to obey such order of the local board shall be subject to imprisonment for not more than five years or a fine of not more than $10,000, or to both such fine and imprisonment.

### Series II.—RELIGIOUS TRAINING AND BELIEF

**INSTRUCTIONS.—Every item in this series must be completed. If more space is needed use extra sheets of paper.**

1. Do you believe in a Supreme Being? ☐ Yes ☐ No. I neither affirm nor deny.
2. Describe the nature of your belief which is the basis of your claim made in Series I above. (Explain what, if anything, you believe to be a Supreme Being involves the duty which to you takes precedence over duties arising from any human relation.)

Refer to Original Statement, which I have already sent the Local Board No. 8 and attached Skeleton following page.

SSS Form No. 150

3. Explain how, when, and from whom or from what source you received the training and acquired the belief which is the basis of your claim made in Series I above.

From my parents and life experience.

4. Give the name and present address of the individual upon whom you rely most for religious guidance.

There is no such one person.

5. Under what circumstances, if any, do you believe in the use of force?

For the personal protection of self and other individual persons.
To enforce a decision, by a majority of the United Nations, against a country accused of violating the peace, or the direct defense of my country.

6. Describe the actions and behavior in your life which in your opinion most conspicuously demonstrate the consistency and depth of your religious convictions.

See statement originally sent to Local Board #8.
I have tried to live a decent law-abiding life with an awareness of the world situation, and I believe in the betterment of mankind.

7. Have you ever given public expression, written or oral, to the views herein expressed as the basis for your claim made in Series I above? If so, specify when and where.

Refer to original Statement, which I have already sent the Local Board No. 8.

I have participated in a number of peace movement demonstrations, and have discussed freely my convictions when the opportunity has arisen.

## Series III.—GENERAL BACKGROUND

**INSTRUCTIONS.—Every item in this series must be completed. If more space is needed use extra sheets of paper.**

1. Give the name and address of each school and college which you have attended, together with the dates of your attendance, and state in each instance the type of school (public, church, military, commercial, etc.).

| Name of School | Type of School | Location of School | Dates Attended From— | To— |
|---|---|---|---|---|
| Yonkers Elementary Schools | Public | Yonkers, N.Y. | 1951 | 1960 |
| Roosevelt High School | Public | Tuckahoe Rd., Yonkers | 1960 | 1963 |
| New School for Social Research | University | 66 West 12th St. N.Y., N.Y. | 1964 | 1965 |
| Neighborhood Playhouse School of the Theatre | Professional | 340 East 54th St. N.Y., N.Y. | 1965 | 1967 |

2. Give a chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college, in which you have at any time been engaged, whether for monetary compensation or not, giving the facts indicated below with regard to each position or job held, or type of work in which engaged.

| | Type of Work | Name of Employer | Address of Employer | Period Worked From— | To— |
|---|---|---|---|---|---|
| ① | Sculptors Assistant | Jan Peter Stern | 14640 Mitchell Rd. Santa Monica Calif. | 1963 | 1964 |
| ② | Photographer | Vernon Pope Co. | 1270 6th Ave. N.Y., N.Y. | 1964 | 1964 |
| ③ | Ranchhand | Watt Mathews | Lambshead Ranch Albany, Texas | 1964 | 1964 |
| ④ | Musician | Self | | 1965 | 1967 |

Series II – Religious Training & Belief

(2) Religion, to me, means the devotion of man to the highest ideal that he can conceive. A respect for the dignity and worth of every human being and a capacity to enter into decent and just and loving relations with other human beings, is not dependant upon being a member of a specific Religious Sect or organization.

The following quote from John Haynes Holmes expresses my feelings very well:

over →

3. Give all addresses and dates of residence where you have formerly lived.

| Name of City, Town, or Village | State or Foreign Country | Street Address or R. F. D. Route | Dates of Residence | |
|---|---|---|---|---|
| | | | From— | To |
| Lovelady | Texas | Box 176 | 1945 | 1946 |
| Staten Island | New York | 139 Tamarack Rd. | 1946 | 1951 |
| ~~Yonkers~~ | | | 19 | 19 |
| | | | 19 | 19 |
| | | | 19 | 19 |
| | | | 19 | 19 |

4. Give the name and address of your parents and indicate whether they are living or not.

Guy Gillette 133 Mountaindale Rd. Yonkers, N.Y. Living
Doris Gillette " " " " " Living

5. (a) State the religious denomination or sect of your father Ethical Movement
(b) State the religious denomination or sect of your mother " "

## Series IV.—PARTICIPATION IN ORGANIZATIONS

**INSTRUCTIONS.—Every item in this series must be completed. If more space is needed use extra sheets of paper.**

1. Have you ever been a member of any military organization or establishment? If so, state the name and address of same and give reasons why you became a member.

No

2. Are you a member of a religious sect or organization? ☐ Yes ☑ No. If your reply to item 2 is "yes," complete items (a) through (e).

(a) State the name of the sect, and the name and location of its governing body or head if known to you.

(b) When, where, and how did you become a member of said sect or organization?

(c) State the name and location of the church, congregation, or meeting where you customarily attend.

(d) Give the name, title, and present address of the pastor or leader of such church, congregation, or meeting.

(e) Describe carefully the creed or official statements of said religious sect or organization in relation to participation in war.

3. Describe your relationships with and activities in all organizations with which you are or have been affiliated, other than military, political, or labor organizations.

Boy Scouts of America — member

Series, II - Continued

(2) cont'd.

"Religion is the consciousness of some power manifest in nature which helps man in the ordering of his life in harmony with its demands.... it is the supreme expression of human nature; it is man thinking his highest, feeling his deepest, and living his best."

---

(3) Series V. - References Continued ✓

Father Donald S. Cheetham

Address> Sweet Chaly Beeite via Covington, Virginia.

Occupation> Clergyman

Relationship> Family Friend

(4) Rev. Charles W. Stipek

Address> William Wisker Hollow, West Hartland, Conn.

Occupation> Clergyman

Relationship> Stepgrandfather

(5) Mr. Sidney Shore

Address> Vernon Pope Co.
1270 6th Ave. New York, N.Y.

Occupation> Vice President of Public Relations Company.

Relationship> Family Friend

(6) Mr. Samuel Reiter

Address> % Reiter & Dulberg
157 W. 54th New York, N.Y.

Occupation> Business Executive
President Reiter & Dulberg Corp.

Relationship> Family Friend

[Letters to Follow From above individuals.]

Series V.—REFERENCES

**INSTRUCTIONS.—This series must be completed. If more space is needed use extra sheets of paper.**

Give here the names and other information indicated concerning persons who could supply information as to the sincerity of your professed convictions against participation in war.

| Name | Full Address | Occupation or Position | Relationship to You |
|---|---|---|---|
| Mrs. Charles W. Stiffen Gertrude Stumm | William Whitaker Hillsboro, Conn. 365 West 23rd St. NY, N.Y. | Housewife Director of Public Relations Fellowship of Reconciliation Agencies. | Grandmother Friend |

(See attached note for References 3-6)

REGISTRANT'S CERTIFICATE

**INSTRUCTIONS.—Every registrant claiming to be a conscientious objector shall make this certificate. If the registrant cannot read, the items and his replies thereto shall be read to him by the person who assists him in completing this form. If the registrant is unable to sign his name he shall make his mark in the space provided for his signature in the presence of two persons who shall sign as witnesses.**

**NOTICE.—Imprisonment for not more than five years or a fine of not more than $10,000, or both such fine and imprisonment, is provided by law as a penalty for knowingly making or being a party to the making of any false statement or certificate regarding or bearing upon a classification. (Universal Military Training and Service Act, as amended).**

I, Guy Porter Gillette, certify that I am the registrant named and described in the foregoing statements in this form; that I have read or have had read to me the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing are (are, are not) in my own handwriting.

Registrant sign here ☞ Guy Porter Gillette
(Signature or mark of registrant)

May 8, 1967
(Date)

(Signature of witness to mark of registrant)

(Date)

(Signature of witness to mark of registrant)

(Date)

If another person has assisted the registrant in completing this form, such person shall sign the following statement:

I have assisted the registrant herein named in completing this form because

(For example—registrant unable to read and write English, etc.)

(Signature of person who has assisted)

(Occupation of person who has assisted)

(Address of person who has assisted)

(Date)

(4)

U.S. GOVERNMENT PRINTING OFFICE: 1966—O-238021

December 27, 1967

Local Board No. 8
45 South Broadway
Yonkers, N.Y.

Dear Sirs,

In answer to your letter of December 22, I did not appear for induction as scheduled because of reasons stated in my application as a Conscientious Objector. These reasons are, that on the basis of individual conscience (as set forth in the Nuremberg Charter), I cannot serve in support of war. In particular the war in Vietnam, which I feel is unjust and illegal. Fundamental questions of life: the infliction of pain, suffering or death on other people, is to me, against all principles of my Humanist belief. I believe that the development of ethical values should be a persons supreme aim in life. This belief is basic in the lives of many individuals and of The Society for Ethical Culture.

Each individual faces a personal dilemma many times in his life, but surely if ones life is a whole and is not compartmentalized, he must live by the same values which support and answer these fundamental questions: by what right may I take anothers life, or destroy his family and home? The only moral or religious reality for me, is to answer that I cannot.

Sincerely,

/s/ Guy P. Gillette 30 8 45 523

THE FIRST CHURCH IN HARTLAND
Congregational
East Hartland, Conn.

May 17, 1967

Local Board No. 8
45 South Broadway
Room 111, 1st Floor
Yonkers, New York, 10701

The Chairman, Local Draft Broad:

This is in reply to your letter of May 16, 1967, requesting information regarding the sincerity of the claim of Guy Porter Gillette to be a conscientious objector and his appeal to be classified as such at this time.

I have known Guy Gillette from his earliest childhood. In all my contacts and conversations with him, I have always found him to be serious-minded and utterly honest. More than what is usual in youth, he has been inclined to be very sensitive to the deeper meanings of life and in his regard for them. Often, even as a child, I found him asking the profounder question which more adult minds missed or lightly dismissed.

As to his present claim to being a conscientious objector, *I believe it to be primarily related to the war efforts in which our country is now engaged. I have spoken with him frequently over the past few years concerning them and I cannot agree with his evaluation of our commitment and obligation as a nation.* I do not, however, question the sincerity with which he holds his position, nor with his conviction that to support them by bearing arms would both be a basic personal betrayal of what he believes and detrimental to the nation's welfare. This has been a burdensome and agonizing matter with him which he has sought to resolve objectively and, at whatever cost to himself, he feels he must maintain responsibily and with a sense of duty. I only regret that his orientation has been *such that he cannot see it differently.*

*His objection on the basis of religious conviction, I believe to be secondary* but of longer standing and of more significance. And again, I would disagree with the conclusions to which he, in good conscience and to the best of his ability, has come. Yet in my twenty years as a chaplain in the military service, and consultations on the subject of conscientious objection, I have seldom encountered a more earnest and selflessly honest soul-searching appraisal. It is devoid of any thought of evasion of duty, expediency or personal consideration. Nor does it involve pacifism as a social or political technique, or the authority of an organized religious body. Rather, it is based on a fundamental regard for human life as sacred which he feels conscience-bound to uphold. The basic evil of war to impersonalize and destroy this ultimate evaluation of human life, I feel, is the motivating source for his conscientious objection.

I am firmly convinced, therefore, that the conscientious objection held by Guy Gillette is held in the utmost sincerity and is of the highest order, and I would unqualifiedly support him in it.

Sincerely yours,

/s/ Rev. Charles W. Stipek

Local Board No. 8
45 South Broadway

MAY 19 1967

Room 111, 1st Floor
Yonders, N.Y, 10701

Local Board-Southern
45 South Broadway

AUG 17 1967

Room 111, 1st Floor
Yonkers N.Y. 10701

3807 E. Jefferson
Seattle, Wash.

May 17, 1967

The Chairman
Local Draft Board
Yonkers, N.Y.

Dear Sir:

I am writing to support the claim of Guy Porter Gillette as a conscientious objector.

It has been my priviledge to know his parents for twenty seven years and *to know Guy since the day of his birth.* In fact I am the young man's godfather.

*As a child he was always serious, honest and straightforward. In his formative years he has proved himself to be a young man of strong principles and integrity and of a moral character beyond reproach. His present stand is not that of the coward or the draft dodger.* On the contrary it is an act of extreme courage. It is not easy to take a stand that exposes him to the easy accusation of being unpatriotic, even when his stand is born of *a deep love for America and a desire for a higher morality in her relations with other nations.*

*Although the morality of our involvement in Vietnam is certainly less clear than our involvement in World War II, many American boys are fighting there with courage and honor. We must also admire the courage of those who in all honor dissent. Guy says that he is a humanist.* God bless his humanism.

Yours,

/s/ Archie Smith

Local Board No. 8
45 South Broadway
MAY 25 1967

Room 111, 1st Floor
Yonkers, N.Y. 10701

Local Board-Southern
45 South Broadway

AUG 17 1967

Room 111, 1st Floor
Yonkers, N. Y. 10701

REITER-DULBERG LABORATORIES, INC.
PHOTOGRAPHIC SERVICES

157 WEST 54 STREET, NEW YORK, N.Y. 10019 - 212JU 2-6871

May 22, 1967

The Chairman
Local Board No. 8
45 South Broadway
Room 111, 1st Floor
Yonkers, N.Y. 10701

Gillette, Guy Porter
SS No. 30-8-45-523

Dear Mr. Chairman,

In connection with your request for information concerning the above named registrant; permit me to make the following observation:

I have been acquainted with Guy for a number of years on a social level, being friends of the family; and also on a business basis with his father. Therefor I feel qualified to give an appraisal of his honesty; and I firmly believe *in his sincerity with respect to the crucial question of participation in this war.*

Respectfully yours,

/s/ Samuel C. Reiter

Local Board No. 8
45 South Broadway

MAY 23 1967

Room 111, 1st Floor
Yonkers, N.Y. 10701

Local Board-Southern
45 South Broadway

AUG 17 1967

Room 111, 1st Floor
Yonkers, N.Y. 10701

May 23, 1967

The Chairman, Local Draft Board:

I have known Guy Gillette, Jr. and his family for 10 years. In that time I have seen Guy mature; he is a thinking, feeling young man who reflects the kind of home in which he grew up. The influence of his parents is obvious. They have inculcated an awareness–and concern–for the world around him. I consider him to be a *compassionate human being, sensitive to the rights of others, involved with his fellow man.*

I respect Guy's integrity and courage. *At 21 he has the character–and yes, the guts–to take a stand which he believes to be right, though it is not a popular one at this time.* He is entitled to the right of dissent, as were the founders of this nation, who held "these truths to be self-evident; that all mean are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

*There is absolutely no doubt in my mind that Guy loves his country and that he would defend it.*

Sincerely,

/s/ Trudy Stamm

365 West 25 Street
New York, N.Y. 10001

Local Board No. 8
45 South Broadway
May 25, 1967
Room 111, 1st Floor
Yonkers, N.Y. 10701

45 South Broadway
Aug. 17, 1967
Room 111, 1st Floor
Yonkers, N.Y. 10701

from

GUY GILLETTE

May 25, 1967

Dear Sirs,

Please add these two letters to my file. You have the particulars on Miss Stamm, Mr. Smith is an actor in the Seattle Repetory Company, has been a friend of the family's for many years and is my godfather. His address is 3807 East Jefferson, Seattle, Washington.

Thank You very much.

Sincerely,

/s/ Guy Gillette 30 8 45 523

Local Board No. 8
45 South Broadway
May 25, 1967

Room 111, 1st Floor
Yonkers, N.Y. 10701

"Bounty"
Sweet Chalybeate
via Covington, Va.
June 1, 1967

Chairman
Local Board No. 8
45 South Broadway
Room 111, 1st Floor
Yonkers, N.Y. 10701

In Re. GILLETTE, Guy Porter
S.S. No. 30-8-45-523

Dear Sir,

I have known this youth all of his life—I Baptised in infancy. I have known his parents for a little longer and I find this family sincere and loyal in all their dealings.

*I am amazed at young Guy's thought on the subject of Pacificism as expressed in his answers to salient questions. It shows real concern for Christian neighbors, a great deal of hard study and soul-searching. It is true it might be based on a deeper and more historical religious conviction; but the Humanist position is succinctly put.*

I therefore urge you to uphold in his decision; and I am willing to do anything in my power to attest to his faithfulness.

Sincerely,

/s/ (Fr.) Donald S. Cheetham
Episcopal Priest

Local Board No. 8
45 South Broadway
June 5 1967
Room 111, 1st Floor
Yonkers, N.Y. 10701

Aug. 17 1967
Room 111, 1st Floor
Yonkers, N.Y. 10701

VERNON POPE CO., Inc.
1270 Avenue of the Americas,
New York, N.Y. 10020

June 1, 1967

Miss Mary Golder, Assistant Clerk
Selective Service System–Local Board No. 8
45 South Broadway
Room 111, 1st Floor
Yonkers, N.Y. 10701

Dear Miss Golder:

In response to your letter of May 16, asking for information on Guy Porter Gillette (SS No. 30-8-45-523), I should like to say:

*I have known the Gillette family for the past ten years.* They are decent, good Americans–in the best sense of that term as I understand it.

During this period, I have seen Guy, Jr., grow from adolescence to young manhood. *He has always impressed me, even as a youth, as someone with strong, heartfelt convictions and I have no doubt of his sincerity as a conscientious objector.*

*It is possible that I in no small measure contributed, unwittingly, to his feelings. I served in the Second World War in the U.S. Army Air Force. Guy and his younger brother were a fascinated audience for my stories about my war experiences–which were far from pleasant and included almost two years of imprisonment by the Germans, as well as being bombed by U.S. planes. Looking back, now, I realize how graphic I was about the horrors and, in many ways, the futility of war.*

I hope that this has been of help to you.

Cordially,

/s/ Sidney Shore

SS:ck

Aug 17 1967
Room 111, 1st Floor
Yonkers, N.Y. 10701

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NEW YORK STATE HEADQUARTERS
SELECTIVE SERVICE SYSTEM

Approved by Director
of Selective Service

SUMMARY OF APPEARANCE BEFORE LOCAL BOARD

Name of Registrant: Guy Porter Gillette Date of Appearance: AUG 8 1967
Selective Service No. 30-6-43-523
Local Board Member or Members present at meeting: John S. Nugent, Gumner Hallock, Fred Martin, John O'Donnell
Start of Hearing 7:35p.m.
End of Hearing 7:50p.m.
The registrant has an outstanding order to report for induction ( ) Yes (XX) No

Type of Appearance:

(XX) Procedural right under section 1624.1 of Selective Service Regulations.
( ) Discretionary interview.
( ) Meeting under section 1660.20(c) of Selective Service Regulations.

Present classification 1-A Desired classification 1-O

Other persons appearing: None

Oath (affirmation) taken by: John S. Nugent, Chairman — A Board-Southern
65 South Broadway

Action taken by local board:

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(XX) The registrant's classification was not reopened.
( ) Postponed registrant's induction until
( ) Request permission from State Director to reopen registrant's classification.
( ) Classified registrant in Class .
( ) Type of civilian work appropriate for registrant to perform in lieu of induction into armed forces

Complete the following if applicable. If either of the following is checked, the opinion of the local board should be recorded on the Minutes of Local Board Meeting (SSS Form 112).

( ) It is the local board's opinion that the registrant is not a genuine conscientious objector and that his beliefs are no different now than they were prior to the issuance of his order to report for induction.

( ) It is the opinion of the local board that the registrant's beliefs matured after the issuance of his order to report for induction. (If such is the case, the local board is required to reopen the registrant's classification.)

NY FORM 7 (Sheet 1) (Rev. 4.20.67)

Oral information given by registrant or other persons appearing (indicate which) to assist the local board in classification. (If no additional information is submitted, so indicate.)

Registrant stated his conscience would not let him fight in VietNam.

Registrant also stated he could not honestly say he would not defend his country if it were attacked. He very well might fight in respect to the country being attacked.

His main source of information which brought about these beliefs was from the news media in respect to publications on the war.

Registrant is opposed to military service in the case of the VietNam War.

Registrant formed his beliefs in the past 2 years or so and is more or less a result of the VietNam war.

(Attach additional sheets if required)

Written information given by registrant or by other person appearing (indicate which) to assist the local board in classification: None

46 South Broadway

1507

Exhibit A

Exhibit B

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onkers, N. Y. 10701

Exhibit C

Above summary prepared by P. J. Grace Clerk
(Name) (Title)

Date: AUG 9 1967 19

N Y FORM 7 (Sheet 2) (Rev. 4.20.67)